

**107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1451-2019

Date of Decision: October 14, 2022

Jai Bhagwan

...Petitioner

Versus

State Bank of India and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Tapish Kumar Gupta, Advocate for the petitioner.

AMAN CHAUDHARY, J.

This is a criminal revision petition against the order dated 21.02.2018 passed by the learned Additional Sessions Judge, Kaithal, whereby the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo simple imprisonment for two years with a fine of Rs.10,000/-.

The application for condonation of delay in filing the present revision petition was filed on the ground that the petitioner being in custody could not arrange funds to file the revision petition and also that the main dispute itself had been compromised between the petitioner and the complainant-bank, as such the delay of 380 days was condoned, vide order dated 05.07.2019. In the order it was recorded that learned counsel respondent-bank did not deny the fact that the matter has been compromised, in view of which sentence of the petitioner was ordered to be suspended during the pendency of the present revision petition and the main revision petition was adjourned to 14.08.2022 and it was directed that in the meanwhile the respondent-bank would file an affidavit.

Mr. Gurinderjit Singh, Advocate has put in appearance on behalf of respondent-bank and has filed short reply by way of affidavit dated 26.07.2019 of the Chief Manager, State Bank of India, Kaithal. He refers to para 3, wherein the factum of the matter having been settled, has been duly accepted and the respondent-bank has no objection if the revision petition is allowed as prayed for. The said para is reproduced as under:-

“3. That in view of the Annexure P-1 annexed with revision petition, it is true that this certificate issued by the answering bank i.e. respondent no.1 and it is further correct that the answering bank has settled the matter with the petitioner and nothing is due against him and has no objection if this revision petition is allowed as prayed for.”

The Hon'ble Full Bench of this Court in case **Kulwinder Singh vs. State of Punjab and another**, 2007(3) RCR (Criminal) 1052 and Hon'ble Division Bench of this Court in case **Sube Singh and another vs. State of Haryana and another**, 2013(4) RCR (Criminal) 102 observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court.

Hon'ble The Apex Court in the case of **Gian Singh Versus State of Punjab and another**, 2012(4) RCR (Criminal) 543 in the cases of involving non-compoundable offence has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is

distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz: (1) to secure the ends of justice or (i) to prevent abuse of the of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case 2 of 4 and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute In this

category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the 3 of 4 ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

The same view has been reiterated by Hon'ble the Apex Court in case **Narinder Singh and others Vs. State of Punjab and another**, 2014(2) RCR (Criminal) 482.

In view of the judgments referred to above and the matter having been settled between the parties, as affirmed by the Bank in the aforesaid affidavit, this Court finds that no useful purpose would be served in continuing the proceedings, thus, in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed by compounding the offences.

Resultantly, the present petition is allowed and criminal complaint RBT No.206 of 2016 and subsequent proceedings i.e. the judgment/order dated 19/20.12.2016 passed by the learned JMIC, Kaithal and order dated 21.2.2018 passed by learned Additional Sessions Judge, Kaithal are quashed.

October 14, 2022
sarita/gsv

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:	Yes	/	No
Whether reportable:	Yes	/	No